

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2810 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MUNICIPAL CORPORATION ,A'BAD

Versus

ALKA FILMS

Appearance:

Mr P G Desai for Petitioner

Mr S I Nanavati for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by the Ahmedabad Municipal Corporation under Article 226 of the Constitution of India, challenging the judgment dated 3.12.1984 passed by the Judge, Small Causes Court No.2, Ahmedabad in M.V. Appeal No. 232/84 whereby the learned Judge allowed the appeal in respect of the premises

situated in Ward Kalupur 3-A bearing survey No. 2352 to 2332/20 and reduced the gross rateable value from Rs.6,618/- to Rs. 480/- for the year 1983-84.

2. This Special Civil Application deserves to be rejected only on the ground that against the judgment of the Small Causes Court in a matter of rateable value or tax fixed or changed under the BPMC Act, the remedy of appeal under section 411 read with section 2 (8 A) is provided to the High Court. The petitioner, instead of filing the appeal, has chosen to approach this Court under Article 226 of the Constitution of India. In view of the statutory alternative remedy available, this Special Civil Application is not maintainable.

3. At this stage, during the course of the dictation of the order, it is submitted by the learned Advocate for the petitioner that this application has been filed perhaps for the reason that the rateable value is not in excess of Rs. 2,000/-. He submits that in view of section 411 of the BPMC Act, appeal will not be maintainable. The learned Advocate points out that the rateable value fixed in the present case is Rs. 480/-. If it is so, then, in view of the petty nature of the matter, it would not be expedient for this Court to exercise powers under Article 226 of the Constitution of India. The petitioner ought to have taken specific ground as to why the Special Civil Application was filed under Article 226 bypassing the remedy of appeal. There is no such ground in the writ petition.

4. In view of the above, this Special Civil Application is rejected. Rule discharged with no order as to costs.